



STATE OF TENNESSEE  
TREASURY DEPARTMENT

**REQUEST FOR PROPOSALS # 30901-44520**  
**AMENDMENT # 1**  
**FOR DEFERRED COMPENSATION/DEFINED**  
**CONTRIBUTION PLAN CONSULTING SERVICES**

**DATE: NOVEMBER 13, 2019**

**RFP # 30901-44520 IS AMENDED AS FOLLOWS:**

1. This RFP Schedule of Events updates and confirms scheduled RFP dates. Any event, time, or date containing revised or new text is highlighted.

EVENT	TIME (central time zone)	DATE	CONFIRMED OR UPDATED
1. RFP Issued		October 9, 2019	CONFIRMED
2. Disability Accommodation Request Deadline	2:00 p.m.	October 15, 2019	CONFIRMED
3. Pre-response Teleconference	2:00 p.m.	October 24, 2019	CONFIRMED
4. Notice of Intent to Respond Deadline	2:00 p.m.	October 25, 2019	CONFIRMED
5. Written "Questions & Comments" Deadline	2:00 p.m.	November 1, 2019	CONFIRMED
6. State Response to Written "Questions & Comments"		November 13, 2019	CONFIRMED
7. Response Deadline	2:00 p.m.	November 21, 2019	CONFIRMED
8. State Completion of Technical Response Evaluations Sections B & C		December 10, 2019	CONFIRMED
9. State Schedules Oral Presentations ( of the Top Three (3) ranked Respondents)		December 11, 2019	CONFIRMED
10. Respondent Oral Presentations (of the Top Three (3) ranked Respondents)	8 a.m. - 4:30 p.m.	January 6 - 10, 2019	CONFIRMED
11. State Completion of Oral Presentation Evaluations		January 10, 2019	CONFIRMED
12. State Opening & Scoring of Cost Proposals of the Top Three (3) ranked Respondents		January 13, 2019	CONFIRMED
13. State Notice of Intent to Award Released <u>and</u> RFP Files Opened for Public Inspection		January 16, 2019	CONFIRMED

14. End of Open File Period		January 23, 2019	CONFIRMED
15. State sends contract to Contractor for signature		January 24, 2019	CONFIRMED
16. Contractor Signature Deadline	2:00 p.m.	January 31, 2019	CONFIRMED

**2. State responses to questions and comments in the table below amend and clarify this RFP.**

Any restatement of RFP text in the Question/Comment column shall NOT be construed as a change in the actual wording of the RFP document.

QUESTION / COMMENT	STATE RESPONSE
1. In the event of vendor consolidation in the ORP and/or 403(b) plans, would the State request assistance developing a new investment array for the program as part of the transition of services?	The State will not be requesting assistance developing a new investment lineup in any vendor scenario; however, the State intends the recordkeeping services RFP development process to include an assessment of the recordkeeping and participant cost impact of using one or more of a potential TPA's proprietary funds.
2. The references are to be completed by the reference, mailed back to consultant, and then included (unopened) with our proposal. Would you consider having reference e-mail their completed reference form directly to the TN procurement contact?	No. As discussed at the Pre-response Teleconference on October 24, 2019, to the extent a Respondent wishes to submit references as part of the RFP process, all references must be submitted in accordance with the requirements set forth in RFP Attachment 6.4, which requirements do not permit direct electronic submission to the State from the party completing the reference.
3. The Statement of Certifications and Assurances includes confirmation that the bidder agrees to all terms and conditions. Is there a way to include any exceptions to the contract terms and conditions?	Yes, but the time to do so is prior to the Written Questions and Comments Deadline. As discussed on the Pre-response Teleconference on October 24, 2019, any proposed modifications or exceptions to the contract terms and conditions must be made prior to the Written Questions & Comments Deadline. The State, in its response, will indicate the acceptable modifications and exceptions so requested by each Respondent.
4. Will the 457 and 401k RFP be limited to recordkeeping services, or will it also include investment options?	The 457 and 401(k) RFP will be limited to recordkeeping services; however, the State intends the recordkeeping services RFP development process to include an assessment of the recordkeeping and participant cost impact of using one or more of a potential TPA's proprietary funds.
5. With respect to the required letter from an accredited credit bureau, can you please confirm all of the information that you require to be included in that report?	Respondents should obtain a "company profile" or "company credit review" from Dun & Bradstreet, Experian, or Equifax. These reports contain demographic data, timing of a company's creditor payments, viability rating, risk profile, bankruptcy information, suits, and liens. We are NOT seeking a debt rating report from S&P, Moody's,

QUESTION / COMMENT	STATE RESPONSE
	or Fitch.
<p>6. Can Section D.5 – Termination for Convenience also be made applicable to the Contractor in addition to the State?</p>	<p>No. This is language from the State’s standard required contract terms, and the State is unable to make this requested change.</p>
<p>7. Can Section D.6 – Termination for Cause be revised as follows?</p> <p><u>Termination for Cause.</u> If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor materially violates any terms of this Contract (“Breach Condition”), the State shall <del>have the right to immediately provide written notice to Contractor specifying the Breach Condition.</del> <u>If within thirty (30) days of notice, the Contractor has not cured the Breach Condition, the State may</u> terminate the Contract and withhold payments in excess of compensation for completed services or provided goods. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any Breach Condition and the State may seek other remedies allowed at law or in equity for breach of this Contract.</p>	<p>No. This is language from the State’s standard required contract terms, and the State is unable to make this requested change.</p>
<p>8. Can the first paragraph of Section D.19 – Hold Harmless be revised as follows?</p> <p><u>Hold Harmless.</u> The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a <u>direct</u> result of <u>the negligent acts or, omissions, or negligence</u> on the part of the Contractor, its employees, or any person acting for or on its or their behalf relating to this Contract. The Contractor further agrees it shall be liable for the reasonable cost of attorneys’ fees, court costs, expert witness fees, and other litigation expenses for the State to enforce the terms of this Contract. <u>The Contractor shall have no obligations under this Section for acts or omissions of an indemnified party or any third parties.</u></p>	<p>No. This is language from the State’s standard required contract terms, and the State is unable to make this requested change.</p>
<p>9. Can the third paragraph of Section D.32 – Insurance be revised as follows?</p> <p>Contractor shall provide the State a certificate of insurance (“COI”) evidencing the coverages and amounts specified in this Section. The COI must</p>	<p>No. This is language from the State’s standard required contract terms, and the State is unable to make this requested change.</p>

QUESTION / COMMENT	STATE RESPONSE
<p>be on a form approved by the TDCI (standard ACORD form preferred). The COI must list each insurer's National Association of Insurance Commissioners (NAIC) number and be signed by an authorized representative of the insurer. The COI must list the State of Tennessee – CPO Risk Manager, 312 Rosa L. Parks Ave., 3rd floor Central Procurement Office, Nashville, TN 37243 as the certificate holder. Contractor shall provide the COI ten (10) business days prior to the Effective Date and again thirty (30) calendar days before renewal or replacement of coverage. Contractor shall provide the State evidence that all subcontractors maintain the required insurance or that subcontractors are included under the Contractor's policy. At any time, the State may require Contractor to provide a valid COI. The Parties agree that failure to provide evidence of insurance coverage as required is a material breach of this Contract. If Contractor self-insures, then a COI will not be required to prove coverage. Instead Contractor shall provide a certificate of self-insurance or a letter, on Contractor's letterhead, detailing its coverage, policy amounts, and proof of funds to reasonably cover such expenses. <del>The State reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.</del></p>	
<p>11 Can the fifth paragraph of Section D.32 – Insurance be revised as follows?</p> <p>The insurance obligations under this Contract shall be: <del>(1)—all the insurance coverage and policy limits carried by the Contractor; or (2)—the minimum insurance coverage requirements and policy limits shown in this Contract; whichever is greater. Any insurance proceeds in excess of or broader than the minimum required coverage and minimum required policy limits, which are applicable to a given loss, shall be available to the State.</del> No representation is made that the minimum insurance requirements of the Contract are sufficient to cover the obligations of the Contractor arising under this Contract. The Contractor shall obtain and maintain, at a minimum, the following insurance coverages and policy limits.</p>	<p>No. This is language from the State's standard required contract terms, and the State is unable to make this requested change.</p>
<p>12 Can Section D.32(c) – Automobile Liability Insurance be deleted?</p>	<p>No. This is language from the State's standard required contract terms, and the State is unable to make this requested change.</p>
<p>13 Can Section D.32(d) – Technology Professional Liability (Errors &amp; Omissions) / Cyberliability</p>	<p>No. This is language from the State's standard required contract terms, and the State is unable to make this requested change.</p>

QUESTION / COMMENT	STATE RESPONSE
Insurance be deleted?	
<p>14 Can Section D.32(e) – Professional Liability Insurance be replaced with the following?</p> <p>c. Professional Liability Insurance</p> <ul style="list-style-type: none"> <li>i. This coverage may be written on a claims-made basis but must include an extended reporting period or “tail coverage” of at least two (2) years after the Term;</li> <li>ii. Any professional liability insurance policy shall have a limit not less than one million dollars (\$1,000,000) per claim and two million dollars (\$2,000,000) in the aggregate; and</li> <li>iii. If the Contract involves the provision of services by medical professionals, a policy limit not less than two million (\$2,000,000) per claim and three million dollars (\$3,000,000) in the aggregate for medical malpractice insurance.</li> </ul>	<p>The State agrees with the proposed language, as modified below. Accordingly, the language in Section D.32(e) of the Pro Forma Contract is deleted and the below language is inserted in its place so that, as amended, the section shall read:</p> <p>e. Professional Liability Insurance</p> <ul style="list-style-type: none"> <li>i. Professional liability insurance shall be written on an occurrence basis or on a claims-made basis. If this coverage is written on a claims-made basis, then it must include an extended reporting period or “tail coverage” of at least <u>three (3) years</u> after the Term;</li> <li>ii. Any professional liability insurance policy shall have a limit not less than one million dollars (\$1,000,000) per claim and two million dollars (\$2,000,000) in the aggregate; and</li> <li>iii. If the Contract involves the provision of services by medical professionals, a policy limit not less than two million (\$2,000,000) per claim and three million dollars (\$3,000,000) in the aggregate for medical malpractice insurance.</li> </ul> <p><b>See deletion item #3 below.</b></p>
<p>15 Can Section E.7 – State Ownership of Goods be replaced with the following?</p> <p><u>State Ownership of Work Products.</u> The State shall have ownership, right, title, and interest, including ownership of copyright, in all materials developed by Contractor specifically and exclusively for the State under this Contract subject to the next subsection and full and final payment for each “Work Product”. The State shall have royalty-free and perpetual rights and license to use, disclose, and reproduce all said Work Products in accordance with the terms of this Contract.</p> <p>a. Notwithstanding anything to the contrary in this Contract, Contractor retains all patent, copyright, and other intellectual property rights in the methodologies, methods of analysis, ideas, concepts, know-how, models, tools, techniques, skills, knowledge and experience owned or possessed by Contractor before the commencement of, or acquired by</p>	<p>The State agrees with the proposed language, as modified below. Accordingly, the language in Section E.7. of the <i>Pro Forma</i> Contract is deleted and the below language is inserted in its place so that, as amended, the section shall read:</p> <p><u>State Ownership of Work Products.</u> The State shall have ownership, right, title, and interest, including ownership of copyright, in all materials developed by Contractor specifically and exclusively for the State under this Contract (“Work Product”). The State shall have royalty-free and perpetual rights and license to use, disclose, and reproduce all said Work Products in accordance with the terms of this Contract.</p> <p>a. Notwithstanding anything to the contrary in this Contract, Contractor retains all patent, copyright, and other intellectual property rights in the methodologies, methods of analysis, ideas, concepts, know-how, models, tools, techniques, skills, knowledge and experience owned or possessed by Contractor before the commencement of, or</p>

QUESTION / COMMENT	STATE RESPONSE
<p>Contractor during or after, the performance of the Services, including without limitation, all systems, software, specifications, documentation and other materials created, owned, or licensed and used by Contractor or its Affiliates or subcontractors in the course of providing the Services (collectively, "Contractor Materials"), and Contractor shall not be restricted in any way with respect thereto. To the extent that any Contractor Materials are embodied in any Work Product, Contractor hereby grants to the State an irrevocable, nonexclusive, non-transferable, royalty-free license to use Contractor Materials for its internal business purposes, but solely in connection with and to the extent necessary for use of the Work Product as contemplated by this Contract. Unless Contractor provides its prior written consent, the State shall not use Contractor's advice or Work Product other than as mutually contemplated by the parties when Contractor first was retained to provide such advice or Work Product.</p> <p>b. The Contractor shall furnish such information and data as the State may reasonably request, that is applicable, essential, fundamental, or intrinsic to any Work Product and Contractor Materials reasonably associated with any Work Product, in accordance with this Contract and applicable state law.</p> <p>c. Nothing in this Contract shall prohibit the Contractor's use for its own purposes of the general knowledge, skills, experience, ideas, concepts, know-how, and techniques obtained and used during the course of providing the services requested under this Contract.</p> <p>d. Nothing in the Contract shall prohibit the Contractor from developing for itself, or for others, materials which are similar to and/or competitive with those that are produced under this Contract</p>	<p>acquired by Contractor during or after, the performance of the Services, including without limitation, all systems, software, specifications, documentation and other materials created, owned, or licensed and used by Contractor or its Affiliates or subcontractors in the course of providing the Services (collectively, "Contractor Materials"), and Contractor shall not be restricted in any way with respect thereto. To the extent that any Contractor Materials are embodied in any Work Product, Contractor hereby grants to the State an irrevocable, nonexclusive, non-transferable, royalty-free license to use Contractor Materials for its internal business purposes.</p> <p>b. The Contractor shall furnish such information and data as the State may reasonably request in accordance with this Contract and applicable state law.</p> <p>c. Nothing in this Contract shall prohibit the Contractor's use for its own purposes of the general knowledge, skills, experience, ideas, concepts, know-how, and techniques obtained and used during the course of providing the services requested under this Contract.</p> <p>d. Nothing in the Contract shall prohibit the Contractor from developing for itself, or for others, materials which are similar to and/or competitive with those that are produced under this Contract.</p> <p>See deletion item #4 below.</p>
<p>16 Can this new provision be inserted into the Contract?</p> <p><u>Discretion.</u> The State will retain all decision-making authority with respect to the management and administration of the plans, including</p>	<p>Yes. The State is agreeable to adding this provision. Accordingly, a new Section A.10. is added to the <i>Pro Forma</i> Contract, containing the below language:</p> <p><u>Discretion.</u> The State will retain all decision-</p>

QUESTION / COMMENT	STATE RESPONSE
<p>appointment and termination of investment managers and final decisions regarding investment policy. Contractor's responsibility does not include discretionary control of any plans or the assets contained therein. Contractor shall have no responsibility for the actions or advice of any other investment advisors or service providers to the State or its plans.</p>	<p>making authority with respect to the management and administration of the plans, including appointment and termination of investment managers and final decisions regarding investment policy. Contractor's responsibility does not include discretionary control of any plans or the assets contained therein. Contractor shall have no responsibility for the actions or advice of any other investment advisors or service providers to the State or its plans.</p> <p>See deletion item #5 below.</p>
<p>17 Can this new provision be inserted into the Contract?</p> <p><u>Exclusion of Indirect Damages.</u> In no event shall either party or its affiliates be liable in connection with this Contract or the services to the other party, its affiliates or any third party for any loss of profit or incidental, consequential, special, indirect, punitive or similar damages. The provisions of this section shall apply to the fullest extent permitted by law. Nothing in this section limiting the liability of a party shall apply to (i) any liability that has been finally determined by a court to have been caused by the fraud of such party or (ii) the extent such limitation of liability is not permissible under applicable law, including laws that may hold parties liable for certain acts of good faith.</p>	<p>No. The State is not agreeable to adding this provision.</p>
<p>18 Can this new provision be inserted into the Contract?</p> <p><u>Binding Arbitration.</u> Any dispute arising out of or relating to this Contract, including the breach, termination or validity thereof, shall be finally resolved by arbitration conducted on a confidential basis in accordance with the International Institute for Conflict Prevention and Resolution ("CPR") Rules for Non-Administered Arbitration, by three arbitrators, of whom each party shall designate one, with the third arbitrator to be designated by the two party-appointed arbitrators. The arbitration shall be governed by the Federal Arbitration Act, 9 U.S.C. §§1 et seq. and judgment upon the award rendered by the arbitrator(s) may be entered by any court having jurisdiction thereof. The place of the arbitration shall be Nashville, Tennessee. The tribunal shall have the power to rule on any challenge to its own jurisdiction or the validity or enforceability of any portion of the agreement to arbitrate. The parties agree to arbitrate solely on an individual basis, and that this agreement does not permit class</p>	<p>No. The State may not enter into arbitration agreements.</p>

QUESTION / COMMENT	STATE RESPONSE
<p>arbitration or any claims brought as a plaintiff or class member in any class or representative arbitration proceeding. The arbitral tribunal may not consolidate more than one person's claims, and may not otherwise preside over any form of a representative or class proceedings. In the event the prohibition on class arbitration is deemed invalid or unenforceable, then the entire agreement to arbitrate will be null and void.</p>	
<p>19 Can this new provision be inserted into the Contract?</p> <p><u>Deliverables.</u> Any reports or other deliverables that Contractor provides to the State, as plan sponsor to its plans, are intended solely for the State's internal use as plan fiduciary, and are not intended for, and may not be distributed, to the plan participants of such plans.</p>	<p>No. The State is subject to public records requirements, and the deliverables provided under a contract awarded pursuant to this RFP would be a matter of public record.</p>
<p>20 Can this new provision be inserted into the Contract?</p> <p><u>Advice on Legal Matters.</u> Contractor is not engaged in the practice of law and the services provided hereunder, which may include commenting on legal issues or drafting documents, do not constitute and are not a substitute for legal advice. Accordingly, Contractor recommends that the State secure the advice of competent legal counsel with respect to any legal matters related to the services or otherwise.</p>	<p>Yes. The State is agreeable to adding this provision. Accordingly, a new Section A.11. is added to the <i>Pro Forma</i> Contract, containing the below language:</p> <p><u>Advice on Legal Matters.</u> Contractor is not engaged in the practice of law and the services provided hereunder, which may include commenting on legal issues or drafting documents, do not constitute and are not a substitute for legal advice. Accordingly, Contractor recommends that the State secure the advice of competent legal counsel with respect to any legal matters related to the services or otherwise.</p> <p>See insertion item #6 below.</p>
<p>21 Can this new provision be inserted into the Contract?</p> <p><u>No Third Party Beneficiaries.</u> Neither this Contract nor the provision of the services is intended to confer any right or benefit on any third party. The provision of services under this Contract cannot reasonably be relied upon by any third party.</p>	<p>Yes. The State is agreeable to adding this provision. Accordingly, new Section A.12 is added to the <i>Pro Forma</i> Contract, containing the below language:</p> <p><u>No Third Party Beneficiaries.</u> Neither this Contract nor the provision of the services is intended to confer any right or benefit on any third party. The provision of services under this Contract cannot reasonably be relied upon by any third party.</p> <p>See insertion item # 7 below.</p>
<p>22 Can this new provision be inserted into the Contract?</p> <p><u>Form ADV, Part 2.</u> The State acknowledges receipt of the Form ADV, Parts 2A and 2B of Contractor. The State also agrees that future</p>	<p>Yes. The State is agreeable to adding this provision. Accordingly, new Section A.13 is added to the <i>Pro Forma</i> Contract, containing the below language:</p> <p><u>Form ADV, Part 2.</u> The State acknowledges</p>



QUESTION / COMMENT	STATE RESPONSE
<p>offers to provide, or the provision of, Form ADV, Parts 2A and 2B or other information required by applicable regulation may be sent to the State electronically, at the email address provided to Contractor by the State prior to such time.</p>	<p>receipt of the Form ADV, Parts 2A and 2B of Contractor. The State also agrees that future offers to provide, or the provision of, Form ADV, Parts 2A and 2B or other information required by applicable regulation may be sent to the State electronically, at the email address provided to Contractor by the State prior to such time.</p> <p>See insertion Item # 8 below.</p>
<p>23 Can this new provision be inserted into the Contract?</p> <p><u>Commodity Trading Advice.</u> To the extent Contractor provide commodity trading advice to the State in connection with the Services:</p> <ul style="list-style-type: none"> <li>a. The State represents that either the named fiduciary or trustee of the plan is excluded from the definition of “commodity pool operator” under Commodity Futures Trading Commission (“CFTC”) Regulation 4.5, and has filed the notice of eligibility, if any, required under such regulation, and will annually reaffirm reliance on such exclusion as required by law, or that the plan is not construed to be a pool under CFTC Regulation 4.5(a)(4)(i) – (v). The State agrees to furnish Contractor with such information as Contractor may reasonably request to confirm the State’s status under CFTC Regulation 4.5.</li> <li>b. Contractor hereby acknowledges that it is a commodity trading advisor (“CTA”) with respect to the plan and Contractor represents and warrants to the State that Contractor is exempt from registration as a CTA under CFTC Regulation 4.14(a)(8) with respect to the plan based on the foregoing representation from the State, and has filed the notice required under CFTC Regulation 4.14(a)(8).</li> <li>c. Contractor represents and warrants to the State that, although Contractor is registered as a CTA, Contractor intends to provide commodity interest trading advice to the plan as if Contractor were exempt from registration as a CTA under CFTC Regulation 4.14(a)(8). Contractor will reaffirm its eligibility to rely on the exemption in CFTC Regulation 4.14(a)(8) as required by law.</li> <li>d. The State represents and warrants to Contractor that the plan is currently, and</li> </ul>	<p>No. The State is not agreeable to adding this provision. The State will not seek commodity trading advice from the Contractor.</p>

QUESTION / COMMENT	STATE RESPONSE
will continue to be, an “eligible contract participant” within the meaning of Section 1a(18) of the Commodity Exchange Act (“CEA”).	
<p>24 Can this new provision be inserted into the Contract?</p> <p><u>Fee Disclosure.</u> To the extent applicable, the State acknowledges and agrees that it has reviewed the information set forth in this Contract regarding compensation to Contractor and, based upon the information provided, acknowledges and agrees that such compensation constitutes “reasonable compensation” within the meaning of Section 408(b)(2) of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”). The State further acknowledges that it has received Contractor’s “Guide to Services and Compensation,” which provides the disclosures required under the rules promulgated under Section 408(b)(2) of ERISA, and that the State has had a reasonable opportunity to review such disclosures prior to executing this Contract.</p>	<p>No. The State is not agreeable to adding this provision as the State plans at issue are not subject to ERISA requirements.</p>
<p>25 Can this new provision be inserted into the Contract?</p> <p><u>Affiliates.</u> The State acknowledges and agrees that Contractor may delegate certain of its obligations in connection with the provision of the services hereunder to one or more affiliates of Contractor, provided that Contractor shall remain responsible to the State for fulfillment of such obligations. The State further understands and acknowledges that, in providing the services hereunder, Contractor may utilize the administrative and support functions of its global affiliates, which may require the transfer of information provided by the State to Contractor hereunder to a non-U.S. affiliate.</p>	<p>The State is agreeable to adding this provision as modified below. Accordingly, new Section A.14 is added to the <i>Pro Forma</i> Contract, containing the below language:</p> <p><u>Affiliates.</u> The State acknowledges and agrees that Contractor may delegate certain of its obligations in connection with the provision of the services hereunder to one or more affiliates of Contractor, provided that Contractor shall remain responsible to the State for fulfillment of such obligations. The State further understands and acknowledges that, in providing the services hereunder, Contractor may utilize the administrative and support functions of its global affiliates, which may require the transfer of information provided by the State to Contractor hereunder to a non-U.S. affiliate. Any affiliate of Contractor performing services under this Contract on behalf of Contractor shall be subject to the prior written approval of the State.</p>
<p>26 Page 29, Section D of the RFP states for respondents to address all oral presentation items outlined on the page. Is this required as part of the RFP submission? Or is this only required for respondents that get selected to make oral presentations?</p>	<p>Section D on page 29 of the RFP is not a required part of the RFP submission, and only the three (3) Respondents chosen to make oral presentations will be evaluated on the items outlined in Section D.</p>
<p>27 Section D.32.d.1 of the <i>Pro Forma</i> Contract states that \$10 million in “Technology Professional Liability (Errors &amp; Omissions) / Cyber Liability</p>	<p>The Respondent would need to increase its Cyber Liability insurance coverage to \$10 million in order to comply with the State’s requirement.</p>

QUESTION / COMMENT	STATE RESPONSE
Insurance” is required. Our firm carries \$10 million in Professional Liability (Errors & Omissions) and \$3 million in Cyber Liability insurance. Can you please confirm if this meets the requirement of the State?	
28. Section E.4 of the <i>Pro Forma</i> Contract states that notification to the State is required if a merger or ownership change occurs with the respondent’s company. For the latter, we are interpreting this as a <i>material</i> change in ownership of the firm (such as changing from an employee-owned company to a sole proprietor model, or vice versa). As an employee-owned firm, can you please confirm if notification is required for each time we add a shareholder to our current shareholder base? Or for instances when a shareholder leaves the firm?	Notification would not be required in the instance of a shareholder joining or leaving the firm; however, to the extent the person leaving the firm is the State’s primary point of contact with respect to the Contract, the firm would need to notify the State of such a change.
29. Could you please confirm that each university uses all 3 vendors (TIAA, Voya, and AIG)? If not, please provide a list of vendor usage by university.	Vendors for UT 403(b) Plan: TIAA, Voya, AIG, Fidelity, Ameriprise.  Vendors for TBR (includes LGI) 403(b) Plan: TIAA., Voya, AIG.  Vendors for ORP (UT, TBR, LGI): TIAA, Voya, AIG
30. Is it possible that the State could proceed with 1 RFP process that encompasses all plans (403(b), ORP, 401(k) and 457) rather than 2 separate searches consisting of the 403(b) and ORP in one search, and the 401(k) and 457 plans in a second search?	The State intends to maintain separate RFP processes for the (1) 401(k) and 457, and (2) ORP and 403(b) plans.  The State intends the services described in A.2 to inform the decision about whether the ORP and 403(b) should be combined under one RFP process or two separate RFP processes.
31. Should our pricing presume quarterly meetings for 60 months in addition to meetings necessary to achieve Scope Items A2 and A3?	Yes; however, quarterly meetings will conducted at the state’s discretion. The state will determine if all quarterly meetings are necessary.
32. What assumption, if any, is there for the number of in-person meetings required to achieve Scope Items A2 and A3?	Up to four (4) onsite days at the State’s discretion.
33. Do you have targeted start and completion dates for Scope Items A2 and A3? If so, what are they?	The RFP specifies that the services described in A.2.A shall be delivered to the State no later than May 1, 2020.  While subject to change, the State currently desires the services requested in A.2.B to be completed no later than April 30, 2021. The services described in A.2.B are understood to be completed upon ORP/403(b) TPA(s) selection. We are currently targeting a TPA(s) RFP release date of January 31, 2021.  While subject to change, the State currently desires the services requested in A.3.A & B to be completed no later than March 1, 2021 and the

QUESTION / COMMENT	STATE RESPONSE
	services requested in A.3.C to be completed no later than February 28, 2022. The services described in A.3.C are understood to be completed upon 401(k)/457 TPA(s) selection. We are currently targeting a TPA RFP release date of November 1, 2021.
34. It appears that some of the listed services includes record keeping and other vendors. Are all of these services expected to be provided by the consultant, or are services outside of investment consulting part of a more broad document also used for more broad searches?	The State intends for the consultant to perform all services enumerated in this RFP.
35. Our understanding is that the services (under both the Scope of Services and the Transition Services) will include general consulting services only and does not include legal, tax, or accounting advice. Except with respect to the provision of consulting services, the State will be responsible for ensuring that it complies with all applicable law of governmental authorities with jurisdiction over the State. Please confirm that the State does not anticipate any legal, tax, or accounting review or advice.	The State does not anticipate any legal, tax, or accounting review or advice as part of the scope of services.
36. Please clarify what you mean by “conflict of interest relative to fulfilling the Transition Services.” . Our understanding of this is that we do not currently have an obligation to another party that would represent a conflict in fulfilling our duties to you. However, we would presume that this section is not seeking to detail potential conflicts that may arise in the implementation of our duty, which would be disclosed if such arose.	The language requires that any subcontract between the Contractor and the Subcontractor contain a provision providing that neither party will engage in activity that creates a conflict of interest relative to fulfilling the Transition Services. By this provision, the State wishes to ensure that any party handling the Transition Services on behalf of the Contractor is able to do so impartially.
37. With respect to Sections A.8 and A.9, would the warranty period for any goods or services delivered be for only 30 days? How would this work with the term of the warranty (greater of the term of the contract or any other warranty offered)?	The Warranty Period would be equal to the term of the Contract in the event the warranty generally offered by the Contractor is only thirty (30) days.
38. With respect to Sections A.8 regarding possession of deliverables, some of the reports or materials provided to you contain information that is not unique to the State and is shared with others (e.g., our manager research and evaluations). As such, we will need to maintain the ownership of such information and reports. We presume that this statement as well as section E.7 is not intended to capture such types of materials or reports. Please let us know if this is not consistent with your understanding.	The State does not desire to acquire possession of any reports or materials that are of a shared nature and that are not unique to the State. Any shared information so described shall be readily identifiable as such.
39. Section D.12. Question: Please clarify what type	This is language from the State’s standard form of

QUESTION / COMMENT	STATE RESPONSE
of monitoring would be conducted by the State?	contract. The State, the Comptroller of the Treasury, or their duly appointed representatives shall at all times have the ability to inspect the activities and records of the Contractor to the extent the same are related to the Contractor's performance under the Contract. Such monitoring may include, but shall not be limited to, periodic requests by, and prompt delivery to, the State of any meeting notes, task checklists, documents supporting the findings of the Contractor (including supporting research), and any other items the State may reasonably request .
40. With respect to Section D.17., please confirm that despite this provision, the State would remain responsible for its own (and its directors, officers, and employee's) negligence, intentional misconduct, and the like.	As stated in Section D.17 of the Contract, "the State shall have no liability except as specifically provided in th[e] Contract."
41. With respect to Section D.19, please confirm that the Contractor's indemnification of the State would be limited to only damages arising out of its wrongful acts, omission, or negligence, and not for damages resulting for any acts of Contractor (et al).	The State expects the Contractor to indemnify it for all claims, direct or indirect.
42. What is the budgeted amount for this project?	The State will not budget a specific amount before proposals are received.
43. Does the budgeted amount for this project exceed \$125,000?	The State will not budget a specific amount before proposals are received.
44. Does question A.5 apply to privately owned firms where credit bureau report numbers may not be available?	Yes.
45. The contract term states 60 months, can you confirm the desired completion dates for requested services (1) A.2.B, (2) A.3.A-C, (3) A.4.A-O?	<p>The State's current ORP vendor contracts expire February 28, 2022. The State's 401(k)/457 vendor contract expires December 31, 2022.</p> <p>While subject to change, the State currently desires the services requested in A.2.B to be completed no later than April 30, 2021 and transition services related to the ORP/403(b) plans to be completed no earlier than February 28, 2022.</p> <p>While subject to change, the State currently desires the services requested in A.3.A-C no later than February 28, 2022 and transition services related to the 401(k)/457 plans to be completed no earlier than December 31, 2022.</p>
46. Given the broad scope of the requested services and the nuanced approach and expertise each organization has to delivering the requested service, what latitude is provided for the execution	The State prefers that a single consultant perform all requested services. The use of subcontractors is permissible subject to State approval and all other requirements enumerated in the RFP and

QUESTION / COMMENT	STATE RESPONSE
of the contracted services as per the exact description in Section A of the provided contract in addition to potentially updating language based on agreed upon approach and delivery as a result of the evaluation process, presentation, hiring, planning, and agreed upon execution of requested services per the RFP?	resulting contract. Further, all contract negotiations must occur during this Question and Comment period, and no substantive changes (including those to Section A) may be made to the <i>Pro Forma</i> Contract after the Question and Comment period.
47. The first sentence under “Services” on page 2 mentions 403(b) plans as plural. How many 403(b) plans are in the retirement program?	The State is Plan Administrator for two (2) 403(b) Plans – the University of Tennessee 403(b) Plan and the Tennessee Board of Regents 403(b) Plan.
48. The Scope of Services lists 4 requested projects. Just to confirm, for the 403(b)/ORP Services, is the efficiency study a plan design analysis and then the State is seeking services for a recordkeeper RFP in addition to that?	Yes - the State intends the services described in A.2 (Efficiency and Feasibility Study) to inform the RFP process.
49. Page 3 lists the Participants, Assets, and Contributions for the UT and TBR systems. Do you have the total of these for the LGI system?	The participants, assets, and contributions given for the TBR 403(b) Plan and ORP are inclusive of the LGI's. The LGI's participate in the Tennessee Board of Regents' 403(b) Plan.
50. How do you want the response to the RFP to be formatted? Should we use the Technical Response items beginning on page 20 as questions and then respond to those points individually, fill out the Page #'s in the charts, and provide the charts as a separate exhibit?	RFP Attachment 6.2 Sections A,B &C beginning on page 20 can be used as a table of contents indicating the location of your response in the column on the left labeled “Response Page #”. It is always a good practice to repeat the question wherever you state the response and reply to each question separately.
51. Page 24 – Questions B.12 and B.13 are both asking for service team details. What type of information specifically for each question so we can distinguish our responses accordingly?	Question B.12. requires a narrative description along with an organizational chart. Question B.13. requires a personnel roster and resumes.
52. Page 29 says that we must address all Oral Presentation Items and there is one item listed. Can we confirm that no action is needed to respond to this section at this time and that this section is to be addressed if chosen as a Finalist?	Confirmed.
53. Are we required to complete Attachment 1 on page 57? If so, would you want this as a separate exhibit or where would you want us to provide this in our response?	Attachment 1 on page 57 is a signature page to the <i>Pro Forma</i> Contract. It needn't be signed until the Contractor Signature Deadline.
54. Please confirm that the RFP projects are limited to recordkeeping services only and would not include investment recommendations.	The RFP projects are limited to recordkeeping services.
55. One of our proposed team members has a spouse that is employed at UT and participates in the plans. Would you consider this a conflict of interest or would negate our response?	The State does not view this relationship as one that creates a conflict of interest, so you need not disclose it in your Response.

QUESTION / COMMENT	STATE RESPONSE
56. In the event of vendor consolidation in the ORP and/or 403(b) plans, would the State request assistance developing a new investment array for the program as part of the transition of services?	No; however, the State intends the recordkeeping services RFP development process to include an assessment of the recordkeeping and participant cost impact of using one or more of a potential TPA's proprietary funds.
57. Please clarify whether the State anticipates completing one combined RFP for the ORP and 403(b) plans or whether a separate RFP will be completed for each plan. Will there be a total of two RFPs (ORP/403(b) and 457/401(k)) or three (ORP, 403(b) and 457/401(k))? If the State is undecided, would you like that we provide a pricing proposal assuming the ORP and the 403(b) plans are run as one RFP and another assuming they are run as two separate RFPs?	<p>The State intends the services described in A.2 to inform the decision about the number of RFP's to be completed for the State's ORP and 403(b) plans. Given that it is uncertain at this time how many RFPs will ultimately be issued, Section A.2.(b) of the <i>Pro Forma</i> Contract has been amended to read as follows:</p> <p><u>Selection of TPA.</u> At the State's request, the Contractor shall assist the State in developing, issuing, and evaluating solicitation documents for a TPA for the Higher Education Plans, including, but not limited to, a request for proposal ("RFP"). The Contractor shall assist the State in development and review of the proposed contract between the State and the TPA. The Contractor understands and agrees that it shall not be eligible for consideration as a TPA for the Higher Education Plans.</p> <p>-----</p> <p>In light of the above, to the extent the Contractor recommends that the State contract with multiple TPAs for the administration of the ORP and 403(b) plans, at the State's request, the Contractor shall assist the State in developing, issuing, and evaluating solicitation documents, including an RFP, for any additional TPAs. These services would be documented as an Optional Service as described in Section A.5, and the Contractor would be compensated for these services at the hourly rate contained in Section C.3.b. of the Contract.</p>
58. In reference to the cyber security insurance, would the State consider an adjustment to the contract by reducing the required minimum amount from \$10 million to \$5 million?	No. This is language from the State's standard contract, and the State is unable to make this requested change.

**3. Delete RFP Attachment 6.6 Pro Forma Contract section D.32(e) in its entirety and insert the following in its place (any sentence or paragraph containing revised or new text is highlighted):**

e. Professional Liability Insurance

- i. Professional liability insurance shall be written on an occurrence basis or on a claims-made basis. If this coverage is written on a claims-made basis, then it must include an extended reporting period or "tail coverage" of at least three (3) years after the Term;

- ii. Any professional liability insurance policy shall have a limit not less than one million dollars (\$1,000,000) per claim and two million dollars (\$2,000,000) in the aggregate; and
- iii. If the Contract involves the provision of services by medical professionals, a policy limit not less than two million (\$2,000,000) per claim and three million dollars (\$3,000,000) in the aggregate for medical malpractice insurance.

**4. Delete RFP Attachment 6.6 Pro Forma Contract section E.7 State Ownership of Goods in its entirety and insert the following in its place (any sentence or paragraph containing revised or new text is highlighted):**

**E.7. State Ownership of Work Products.** The State shall have ownership, right, title, and interest, including ownership of copyright, in all materials developed by Contractor specifically and exclusively for the State under this Contract ("Work Product") The State shall have royalty-free and perpetual rights and license to use, disclose, and reproduce all said Work Products in accordance with the terms of this Contract.

- a. Notwithstanding anything to the contrary in this Contract, Contractor retains all patent, copyright, and other intellectual property rights in the methodologies, methods of analysis, ideas, concepts, know-how, models, tools, techniques, skills, knowledge and experience owned or possessed by Contractor before the commencement of, or acquired by Contractor during or after, the performance of the Services, including without limitation, all systems, software, specifications, documentation and other materials created, owned, or licensed and used by Contractor or its Affiliates or subcontractors in the course of providing the Services (collectively, "Contractor Materials"), and Contractor shall not be restricted in any way with respect thereto. To the extent that any Contractor Materials are embodied in any Work Product, Contractor hereby grants to the State an irrevocable, nonexclusive, non-transferable, royalty-free license to use Contractor Materials for its internal business purposes.
- b. The Contractor shall furnish such information and data as the State may reasonably request, in accordance with this Contract and applicable state law.
- c. Nothing in this Contract shall prohibit the Contractor's use for its own purposes of the general knowledge, skills, experience, ideas, concepts, know-how, and techniques obtained and used during the course of providing the services requested under this Contract.
- d. Nothing in the Contract shall prohibit the Contractor from developing for itself, or for others, materials which are similar to and/or competitive with those that are produced under this Contract

**5. Add the following as RFP Attachment 6.6 Pro Forma Contract section A.10 and renumber any subsequent sections as necessary:**

**A.10. Discretion.** The State will retain all decision-making authority with respect to the management and administration of the plans, including appointment and termination of investment managers and final decisions regarding investment policy. Contractor's responsibility does not include discretionary control of any plans or the assets contained therein. Contractor shall have no responsibility for the actions or advice of any other investment advisors or service providers to the State or its plans.

**6. Add the following as RFP Attachment 6.6 Pro Forma Contract section A.11 and renumber any subsequent sections as necessary:**

**A.11 Advice on Legal Matters.** Contractor is not engaged in the practice of law and the services provided hereunder, which may include commenting on legal issues or drafting documents, do not constitute and are not a substitute for legal advice. Accordingly, Contractor recommends that the



State secure the advice of competent legal counsel with respect to any legal matters related to the services or otherwise.

**7. Add the following as RFP Attachment 6.6 Pro Forma Contract section A.12 and renumber any subsequent sections as necessary:**

**A.12. No Third Party Beneficiaries.** Neither this Contract nor the provision of the services is intended to confer any right or benefit on any third party. The provision of services under this Contract cannot reasonably be relied upon by any third party.

**8. Add the following as RFP Attachment 6.6 Pro Forma Contract section A.13 and renumber any subsequent sections as necessary:**

**A.13. Form ADV, Part 2.** The State acknowledges receipt of the Form ADV, Parts 2A and 2B of Contractor. The State also agrees that future offers to provide, or the provision of, Form ADV, Parts 2A and 2B or other information required by applicable regulation may be sent to the State electronically, at the email address provided to Contractor by the State prior to such time.

**9. Add the following as RFP Attachment 6.6 Pro Forma Contract section A.14 and renumber any subsequent sections as necessary:**

**A.14 Affiliates.** The State acknowledges and agrees that Contractor may delegate certain of its obligations in connection with the provision of the services hereunder to one or more affiliates of Contractor, provided that Contractor shall remain responsible to the State for fulfillment of such obligations. The State further understands and acknowledges that, in providing the services hereunder, Contractor may utilize the administrative and support functions of its global affiliates, which may require the transfer of information provided by the State to Contractor hereunder to a non-U.S. affiliate. Any affiliate of Contractor performing services under this Contract on behalf of Contractor shall be subject to the prior written approval of the State.

**10. Delete RFP Attachment 6.6 Pro Forma Contract section A.2(b) Selection of TPA in its entirety and insert the following in its place** (any sentence or paragraph containing revised or new text is highlighted)

(b) Selection of TPA. At the State's request, the Contractor shall assist the State in developing, issuing, and evaluating solicitation documents for a TPA for the Higher Education Plans, including, but not limited to, a request for proposal ("RFP"). The Contractor shall assist the State in development and review of the proposed contract between the State and the TPA. The Contractor understands and agrees that it shall not be eligible for consideration as a TPA for the Higher Education Plans.

**11. RFP Amendment Effective Date.** The revisions set forth herein shall be effective upon release. All other terms and conditions of this RFP not expressly amended herein shall remain in full force and effect.